

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed April 2, 2008. Through this response, no claims have been amended. Reconsideration and allowance of the application and pending claims 1-3 and 5-47 are respectfully requested.

In addition, Applicants note that there is a comment edit symbol on page 6 of the Office Action which is perplexing to Applicants since no 112(2) rejection has been levied in the Office Action. Applicants respectfully request removal of the comment edit symbol in the next Office Action, or if intended as a rejection, a formalized rejection and explanation and necessary support of the same.

I. Claim Rejections - 35 U.S.C. § 103(a)

A. Rejection of Claims 1-3 and 5-47

Claims 1-3 and 5-47 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Pierre et al.* ("*Pierre*," U.S. Pat. No. 6,678,463) in view of *Ellis et al.* ("*Ellis*," U.S. Pub. No. 2006/0140584). Applicants respectfully traverse this rejection.

B. Discussion of the Rejection

The M.P.E.P. § 2100-116 states:

Office policy is to follow *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), in the consideration and determination of obviousness under 35 U.S.C. 103. . . the four factual inquires enunciated therein as a background for determining obviousness are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

In the present case, it is respectfully submitted that a *prima facie* case for obviousness is not established using the art of record.

Independent Claim 1

Claim 1 recites (emphasis added):

1. A system for managing the allocation and storage of media content instance files in a hard disk of a storage device coupled to a media client device in a subscriber television system, comprising:

a memory for storing logic;

a buffer space in the hard disk for buffering media content instances as buffered media content instance files; and

a processor configured with the logic to track the size of permanent media content instance files and the buffered media content instance files to provide a visual indication of an amount of available free space, such that the indication is independent of the buffer space.

Applicants respectfully submit that *Pierre* in view of *Ellis* fails to disclose, teach, or suggest at least the above emphasized claim features. The Office Action provides the following explanation on page 3 (no emphasis added):

Pierre does not specifically disclose that the indication of available space is a visual indication of an amount of available free space, such that the indication is independent of the buffer space.

However, in an analogous art, *Ellis* discloses in FIGs. 94, 97, 101 a visual indication of an amount of available free space and the indication of the available free space in buffer 1 does not require that content of buffer 1 is viewed because the user has tuned to another channel – i.e., the indication is independent of the buffer space in buffer 1.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the technique of providing a visual indication of the amount of available free space in the available buffer(s), as taught in *Ellis* with the teachings of *Pierre* because the technique of *Ellis* would enhance the tracking of the available free space in the storage medium (e.g., permanent and temporary buffers) in *Pierre*.

Applicants respectfully note that the Office Action has improperly relied on Figures 94, 97, and 101 from *Ellis* in the rejection. Applicants respectfully submit that Figures 94, 97, and 101 do not represent prior art to Applicants' application, and hence respectfully request that the rejection be withdrawn. *Ellis* is based on (e.g., a continuation of) application no. 10/105,128, which has an actual filing date of February 21, 2002; February 21, 2002 is after

Applicants' actual filing date of December 6, 2001. Figures 94, 97, and 101 are not shown in the provisionals (provisional numbers 60/270,469, 60/271, 809, 60/284,703, 60/296,593, and 60/301,589) cited in *Ellis* as an alleged basis for priority. Since the basis of the rejection relies on art that does not predate Applicants' filing date, Applicants respectfully request that the next non-final Office Action either cite from one or more of the provisionals where, if present, support for Figures 94, 97, and 101 can be found, or withdraw the rejection and allow the claims. Further, Applicants respectfully submit that the request for such citations is not intended to be construed as an admission that Figures 94, 97, and 101 make obvious the claimed features or otherwise teach or disclose what is alleged in the Office Action.

For at least these reasons, Applicants respectfully submit that claim 1 is allowable over *Pierre* in view of *Ellis*.

Because independent claim 1 is allowable over *Pierre* in view of *Ellis*, dependent claims 2-3, 5-22, and 47 are allowable as a matter of law for at least the reason that the dependent claims 2-3, 5-22, and 47 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Independent Claim 23

Claim 23 recites (emphasis added):

23. A system for managing the allocation and storage of media content instance files in a hard disk of a storage device coupled to a media client device in a subscriber television system, comprising:
a memory for storing logic;

a buffer space in the hard disk for continuously buffering media content instances as buffered media content instance files; and

a processor configured with the logic to track the size of permanent media content instance files and the buffered media content instance files, wherein the processor is further configured with the logic to provide a user interface, responsive to a user input, wherein the user interface provides the indication of available free space for permanently recording media content instances, wherein the permanently recorded media content instances are configured as the permanently

recorded media content instance files, wherein the permanently recorded media content instance files can be deleted from the storage device, wherein the user input is implemented with a remote control device, wherein the permanently recorded media content is from the buffer space, wherein the permanently recorded media content is a scheduled recording initially written to non-buffer space, wherein the permanently recorded media content is a scheduled recording initially written to non-buffer space, wherein the buffer space, the available free space, and permanently recorded space are located on the hard disk, wherein the buffer space and permanently recorded space are allocated from the free space on the hard disk, wherein the buffer space and permanently recorded space have physical locations on the hard disk, wherein the buffer space and the available free space is measured in units of hard disk space, wherein the processor is further configured with the logic to buffer analog broadcast media content instances, received at a communications interface, as digitally compressed media content instances, wherein the processor is further configured with the logic to buffer an analog signal received at a connector from a consumer electronics device, as a digitally compressed media content instance, wherein the processor is further configured with the logic to buffer digital broadcast media content instances, received at a communications interface, as digitally compressed media content instances, wherein the processor is further configured with the logic to buffer digital media-on-demand media content instances, received at a communications interface from a remote server, as digitally compressed media content instances, wherein the processor is further configured with the logic to buffer digital media content instances, received at a digital communications port from a local network, as digitally compressed media content instances, wherein the processor is further configured with the logic to buffer digital media content instances, received at a digital communications port from a local device, as digitally compressed media content instances, wherein the processor is further configured with the logic to determine the available free space after subtracting buffer space capacity from total disk space, wherein the processor is configured with the logic to reduce the available free space by the amount of the space used for the permanent media content instance files, wherein the processor is configured with the logic to increase the available free space by the amount of the space recovered from a deleted permanent media content instance files, wherein the indication of the free space available is configured in time of space available for the permanent media content instance files, ***wherein the processor is further configured with the logic to provide the user interface that provides a numerical indication of an amount of available free space, such that the indication is unaffected by writes to and deletions from the buffer space.***

Applicants respectfully submit that *Pierre* in view of *Ellis* fails to disclose, teach, or suggest at least the above emphasized claim features. The Office Action (page 8) refers to the rejection of claims 1-22 to support the rejection of claim 23. Using the rejection of claim

1 in the context of claim 23, Applicants note that the Office Action provides the following explanation on page 3 (no emphasis added):

Pierre does not specifically disclose that the indication of available space is a *visual indication of an amount of available free space, such that the indication is independent of the buffer space.*

However, in an analogous art, Ellis discloses in FIGs. 94, 97, 101 a visual indication of an amount of available free space and the indication of the available free space in buffer 1 does not require that content of buffer 1 is viewed because the user has tuned to another channel – i.e., the indication is independent of the buffer space in buffer 1.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the technique of providing a visual indication of the amount of available free space in the available buffer(s), as taught in Ellis with the teachings of Pierre because the technique of Ellis would enhance the tracking of the available free space in the storage medium (e.g., permanent and temporary buffers) in Pierre.

Applicants respectfully note that the Office Action has improperly relied on Figures 94, 97, and 101 from *Ellis* in the rejection. Applicants respectfully submit that Figures 94, 97, and 101 do not represent prior art to Applicants' application, and hence respectfully request that the rejection be withdrawn. *Ellis* is based on (e.g., a continuation of) application no. 10/105,128, which has an actual filing date of February 21, 2002; February 21, 2002 is after Applicants' actual filing date of December 6, 2001. Figures 94, 97, and 101 are not shown in the provisionals (provisional numbers 60/270,469, 60/271, 809, 60/284,703, 60/296,593, and 60/301,589) cited in *Ellis* as an alleged basis for priority. Since the basis of the rejection relies on art that does not predate Applicants' filing date, Applicants respectfully request that the next non-final Office Action either cite from one or more of the provisionals where, if present, support for Figures 94, 97, and 101 can be found, or withdraw the rejection and allow the claims. Further, Applicants respectfully submit that the request for such citations is not intended to be construed as an admission that Figures 94, 97, and 101 make obvious the claimed features or otherwise teach or disclose what is alleged in the Office Action.

For at least these reasons, Applicants respectfully submit that claim 23 is allowable over *Pierre* in view of *Ellis*.

Independent Claim 24

Claim 24 recites (emphasis added):

24. A method for managing the allocation and storage of media content instance files in a hard disk of a storage device coupled to a media client device in a subscriber television system, comprising the steps of:

buffering media content instances into buffer space as buffered media content instance files;

tracking the size of permanent media content instance files and buffered media content instance files; and

providing a visual indication of an amount of available free space, such that the indication is independent of the buffer space.

Applicants respectfully submit that *Pierre* in view of *Ellis* fails to disclose, teach, or suggest at least the above emphasized claim features. The Office Action provides the following explanation on page 9 (no emphasis added):

Pierre does not specifically disclose that the indication of available space is a visual indication of an amount of available free space, such that the indication is independent of the buffer space.

However, in an analogous art, *Ellis* discloses in FIGs. 94, 97, 101 a visual indication of an amount of available free space and the indication of the available free space in buffer 1 does not require that content of buffer 1 is viewed because the user has tuned to another channel – i.e., the indication is independent of the buffer space in buffer 1.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the technique of providing a visual indication of the amount of available free space in the available buffer(s), as taught in *Ellis* with the teachings of *Pierre* because the technique of *Ellis* would enhance the tracking of the available free space in the storage medium (e.g., permanent and temporary buffers) in *Pierre*.

Applicants respectfully note that the Office Action has improperly relied on Figures 94, 97, and 101 from *Ellis* in the rejection. Applicants respectfully submit that Figures 94, 97, and 101 do not represent prior art to Applicants' application, and hence respectfully request that

the rejection be withdrawn. *Ellis* is based on (e.g., a continuation of) application no. 10/105,128, which has an actual filing date of February 21, 2002; February 21, 2002 is after Applicants' actual filing date of December 6, 2001. Figures 94, 97, and 101 are not shown in the provisionals (provisional numbers 60/270,469, 60/271, 809, 60/284,703, 60/296,593, and 60/301,589) cited in *Ellis* as an alleged basis for priority. Since the basis of the rejection relies on art that does not predate Applicants' filing date, Applicants respectfully request that the next non-final Office Action either cite from one or more of the provisionals where, if present, support for Figures 94, 97, and 101 can be found, or withdraw the rejection and allow the claims. Further, Applicants respectfully submit that the request for such citations is not intended to be construed as an admission that Figures 94, 97, and 101 make obvious the claimed features or otherwise teach or disclose what is alleged in the Office Action.

For at least these reasons, Applicants respectfully submit that claim 24 is allowable over *Pierre* in view of *Ellis*.

Because independent claim 24 is allowable over *Pierre* in view of *Ellis*, dependent claims 25 – 45 are allowable as a matter of law.

Independent Claim 46

Claim 46 recites (emphasis added):

46. A method for managing the allocation and storage of media content instance files in a hard disk of a storage device coupled to a media client device in a subscriber television system, comprising the steps of:

continuously buffering media content instances as buffered media content instance files;

tracking the size of permanent media content instance files and the buffered media content instance files;

providing a user interface, responsive to a user input, wherein the user interface provides a numerical indication of an amount of available free space for permanently recording media content instances,
wherein the permanently recorded media content

instances are configured as the permanently recorded media content instance files, wherein the permanently recorded media content instance files can be deleted from the storage device, wherein the user input is implemented with a remote control device, wherein the permanently recorded media content is from the buffer space, wherein the permanently recorded media content is a scheduled recording initially written to non-buffer space, **wherein the indication is unaffected by writes to and deletions from the buffer space**, wherein the buffer space, the available free space, and permanently recorded space are located on the hard disk, wherein the buffer space and permanently recorded space are allocated from the free space on the hard disk, wherein the buffer space and permanently recorded space have physical locations on the hard disk, wherein the buffer space and the available free space is measured in units of hard disk space;

- buffering analog broadcast media content instances, received at a communications interface, as digitally compressed media content instances;
- buffering an analog signal received at a connector from a consumer electronics device, as a digitally compressed media content instance;
- buffering digital broadcast media content instances, received at a communications interface, as digitally compressed media content instances;
- buffering digital media-on-demand media content instances, received at a communications interface from a remote server, as digitally compressed media content instances;
- buffering digital media content instances, received at a digital communications port from a local network, as digitally compressed media content instances;
- buffering digital media content instances, received at a digital communications port from a local device, as digitally compressed media content instances;
- determining the available free space after subtracting buffer space capacity from total disk space;
- reducing the available free space by the amount of the space used for the permanent media content instance files; and
- increasing the available free space by the amount of the space recovered from a deleted permanent media content instance files, wherein the indication of the free space available is configured in time of space available for the permanent media content instance files.

Applicants respectfully submit that *Pierre* in view of *Ellis* fails to disclose, teach, or suggest at least the above emphasized claim features. The Office Action (page 13) refers

to the rejection of claims 24-45 to support the rejection of claim 46. Using the rejection of claim 24 in the context of claim 46, Applicants note that the Office Action provides the following explanation on page 9 (no emphasis added):

Pierre does not specifically disclose that the indication of available space is a visual indication of an amount of available free space, such that the indication is independent of the buffer space.

However, in an analogous art, Ellis discloses in FIGs. 94, 97, 101 a visual indication of an amount of available free space and the indication of the available free space in buffer 1 does not require that content of buffer 1 is viewed because the user has tuned to another channel – i.e., the indication is independent of the buffer space in buffer 1.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the technique of providing a visual indication of the amount of available free space in the available buffer(s), as taught in Ellis with the teachings of Pierre because the technique of Ellis would enhance the tracking of the available free space in the storage medium (e.g., permanent and temporary buffers) in Pierre.

Applicants respectfully note that the Office Action has improperly relied on Figures 94, 97, and 101 from *Ellis* in the rejection. Applicants respectfully submit that Figures 94, 97, and 101 do not represent prior art to Applicants' application, and hence respectfully request that the rejection be withdrawn. *Ellis* is based on (e.g., a continuation of) application no. 10/105,128, which has an actual filing date of February 21, 2002; February 21, 2002 is after Applicants' actual filing date of December 6, 2001. Figures 94, 97, and 101 are not shown in the provisionals (provisional numbers 60/270,469, 60/271, 809, 60/284,703, 60/296,593, and 60/301,589) cited in *Ellis* as an alleged basis for priority. Since the basis of the rejection relies on art that does not predate Applicants' filing date, Applicants respectfully request that the next non-final Office Action either cite from one or more of the provisionals where, if present, support for Figures 94, 97, and 101 can be found, or withdraw the rejection and allow the claims. Further, Applicants respectfully submit that the request for such citations is not intended to be construed as an admission that Figures 94, 97, and 101 make obvious the claimed features or otherwise teach or disclose what is alleged in the Office Action.

For at least these reasons, Applicants respectfully submit that claim 46 is allowable over *Pierre* in view of *Ellis*.

In summary, it is Applicants' position that a *prima facie* for obviousness has not been made against Applicants' claims. Therefore, it is respectfully submitted that each of these claims is patentable over the art of record and that the rejection of these claims should be withdrawn.

CONCLUSION

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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